

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:06CR251-8**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
CARROLL CLEVELAND HOWARD,)	
)	
Defendant.)	
_____)	

THIS CAUSE coming on to be heard and being heard before the undersigned, upon a motion filed by defendant’s counsel entitled, “Motion to Reconsider Detention” (#122) and it appearing to the court at the call of this matter on for hearing that the defendant was present with his attorney, James O. Rice, Jr. and that the Government was present through Assistant United States Attorney, Corey Ellis and from the records in this cause and the arguments presented by counsel for the defendant and the Assistant United States Attorney, the court makes the following findings:

Findings: In an indictment issued on October 3, 2006, the defendant was charged with conspiracy to possess with intent to distribute cocaine base. On January 5, 2007 the undersigned entered an order detaining the defendant. In that order, the undersigned made specific findings upon which the Order of Detention was based.

Discussion: The undersigned has reconsidered whether or not to release the defendant on terms and conditions of pretrial release. In reconsidering, the undersigned has again considered the factors as set forth under 18 U.S.C. 3142(g) and makes the following findings:

(g)(1) the nature and circumstances of the offense charged involve a narcotic drug;

(g)(2) the weight of the evidence against the defendant appears to be significant. The defendant has entered into a plea agreement in regard to this case;

As to the factors under (g)(3) the undersigned incorporates by reference the findings as set forth in the order filed on January 5, 2007;

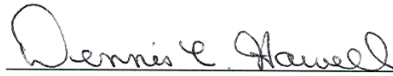
As to factor (g)(4) it appears that the defendant has completed the Jail Based Inpatient Treatment Program. However, the probation office has recommended that the defendant remain in custody pending disposition of his case due to his criminal record which includes three felony convictions, that being for felony breaking and entering, felony larceny and felony possession of a schedule II controlled substance and misdemeanor convictions for assault on a female and misdemeanor second degree trespass and misdemeanor solicitation to obtain property by a false pretense. The record further shows that the defendant has violated terms and conditions of pretrial release and probation when he has been placed on bond or placed on probation for state charges.

Based upon these findings, it appears that the release of the defendant would create a danger to any other person or the community. This is based, in large part, upon the defendant's previous criminal record. As a result, the undersigned has determined to enter an order denying the defendant's motion for release and entering an order continuing the detention of the defendant.

ORDER

WHEREFORE IT IS **ORDERED** that the Motion to Reconsider Detention (#122) of the defendant is **DENIED** and that the defendant be continued to be detained pending sentencing in this matter.

Signed: March 7, 2007



Dennis L. Howell
United States Magistrate Judge

